



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MAY 11 2012

Charles E. Wilkerson
1513 E. Elm Avenue
El Segundo, CA 90245

RE: MUR 6569
(formerly RR 11L-34)
Chuck Wilkerson for Congress
and Patricia Louise Motta, in her
official capacity as treasurer

Dear Mr. Wilkerson:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission ("the Commission") became aware of information suggesting that Chuck Wilkerson for Congress and Patricia Louise Motta, in her official capacity as treasurer ("the Committee"), may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). On December 30, 2011, the Committee was notified that it was being referred to the Commission's Office of the General Counsel for possible enforcement action under 2 U.S.C. § 437g. On May 8, 2012, the Commission found reason to believe that the Committee violated 2 U.S.C. § 434(b), a provision of the Act. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

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In the meantime, this matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

Please note that the Committee has a legal obligation to preserve all documents, records, and materials relating to this matter until notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519.

We look forward to your response.

On behalf of the Commission,



Caroline C. Hunter
Chair

Enclosures
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Charles Wilkerson for Congress
and Patricia Louise Motta, in her
official capacity as treasurer

MUR: 6569
(formerly RR 11L-34)

I. GENERATION OF MATTER

This matter was generated based on information ascertained by the Federal Election Commission ("Commission") in the normal course of carrying out its supervisory responsibilities, *see* 2 U.S.C. § 437g(a)(2).

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Background

Charles Wilkerson was the Republican candidate for the U.S. House of Representatives from California's 30th Congressional District in 2010. His designated principal campaign committee is Chuck Wilkerson for Congress ("Respondent" or "Committee"). Patricia Louise Motta is the Committee's treasurer. The Committee filed its Statement of Organization on March 16, 2010, and has filed regular disclosure reports since that date.¹

The Committee timely filed its 2010 October Quarterly, 2010 12 Day Pre-General, 2010 30 Day Post-General Reports, and filed its 2011 April Quarterly Report two days after the filing due date. However, the Committee filed several amendments to each of these reports, some of which disclosed additional activity not included in the original reports, as reflected in the chart below.

¹ Mr. Wilkerson lost the 2010 general election, and the Committee requested to terminate on November 16, 2011.

1

Report	Date(s) of Amendment(s)	Amount of Increased Receipts	Amount of Increased Disbursements	Total Increased Activity
2010 Oct. Quarterly	July 28, 2011	\$11,060.24	\$5,753.11	\$16,813.35
2010 Pre-General	August 4, 2011	NA	\$439.30	\$439.30
2010 Post-General	July 15, 2011 July 28, 2011 August 4, 2011	NA	\$121,958.43	\$121,958.43
2011 April Quarterly	August 4, 2011	NA	\$1,311.31	\$1,311.31
	TOTAL	\$11,060.24	\$129,462.15	\$140,522.39

2 On September 2, 2011, the Reports Analysis Division ("RAD") sent the Committee a
3 Request for Additional Information ("RFAI") regarding the increased activity disclosed on these
4 reports.² Letter from Bradley Matheson, Senior Campaign Finance Analyst, Federal Election
5 Commission, to Patricia Louise Motta, Treasurer, Chuck Wilkerson for Congress (Sept. 2, 2011)
6 (on file at www.fec.gov). The RFAI noted that the amended reports disclosed a substantial
7 increase in the amount of receipts and disbursements from those disclosed in the original reports,
8 and requested that the Committee either amend the reports or provide an explanation to clarify
9 why the additional activity was not provided in the original reports. *Id.*

10 Mr. Wilkerson responded to the RFAI on behalf of the Committee, explaining that the
11 amendments were the result of a thorough review of the Committee's receipts and
12 disbursements. *See* Form 99 filed September 22, 2011. Specifically, he explained that:

² Although the Committee had received prior RFAI's regarding these reports, those RFAI's did not concern the amount of receipts and disbursements disclosed. The September 2, 2011 RFAI also addressed other issues that were not referred to OGC.

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- 1 • The original 2010 October Quarterly Report failed to account for campaign expenditures
2 made on Mr. Wilkerson's personal credit card. These expenditures were entered as
3 campaign contributions by the candidate and as additional disbursements on the amended
4 report.³
- 5
- 6 • The entries on Schedule B were inadvertently omitted from the original 2010 30 Day
7 Post-General Report. When Schedule B was included, the amount of disbursements
8 disclosed for operating expenditures increased from \$0.00 to \$121,958.43.⁴
- 9
- 10 • Certain loan repayments made to the candidate were overlooked in the original 2011
11 April Quarterly Report, but were included in the amended report.

12 RAD referred the Committee to the Office of the General Counsel for failing to disclose
13 \$11,060.24 of receipts and \$129,462.15 in disbursements in its 2010 October Quarterly, 2010 12
14 Day Pre-General, 2010 30 Day Post-General, and 2011 April Quarterly Report (hereinafter
15 "Referral").

16 On December 30, 2011, this Office notified the Respondent of the Referral in accordance
17 with the Commission's policy regarding notification in non-complaint generated matters. See 74
18 Fed. Reg. 38617 (August 4, 2009). Upon notification of the RAD Referral, Mr. Wilkerson again
19 responded on behalf of the Committee, acknowledging the reporting errors and requesting
20 conciliation. See Memorandum from Charles Wilkerson, Charles Wilkerson for Congress, to
21 Office of the General Counsel (Jan. 10, 2012) (hereinafter "Response"). He explains that,
22 despite his lack of campaign experience, he relied on his background as a small business owner
23 to personally take responsibility for the Committee's disclosure reports. As a consequence, he

³ The Amended 2010 October Quarterly Report discloses previously unreported contributions by the candidate that were reflected in the original report only as disbursements. The amended report thus includes both the in-kind contributions from the candidate and the related disbursement. It appears that these in-kind contributions from the candidate, while properly itemized in Schedule A of the amended report, were misidentified on the Summary Page as Line 11(a) (Contributions from Individuals) instead of Line 11(d) (Contributions from the Candidate).

⁴ Respondent's assertion is not entirely correct in that the Committee's original 2010 30 Day Post-General Report actually included a portion of Schedule B itemizing disbursements reported on Line 19(a) (Loan Repayments Made to the Candidate), but did not include the portion of Schedule B itemizing disbursements reported on Line 17 (Operating Expenditures), which was included in the amended reports.

1 continues, the disclosure reports contained errors, and, after the general election, he ultimately
2 reviewed the Committee's entire reporting record and made final corrections. *See* Response at 2.
3 He does not further elaborate on the corrections, but rather refers back to the explanations he
4 provided in response to the RFAI. *See id.*

5 **B. Legal Analysis**

6 The Federal Election Campaign Act of 1971, as amended ("the Act"), requires committee
7 treasurers to file reports of receipts and disbursements in accordance with the provisions of
8 2 U.S.C. § 434. *See* 2 U.S.C. § 434(a)(1) and 11 C.F.R. § 104.1(a). These reports must include,
9 *inter alia*, the total amount of receipts and disbursements. *See* 2 U.S.C. § 434(b); 11 C.F.R.
10 § 104.3. Committees are also required to disclose itemized breakdowns of receipts and
11 disbursements and disclose the name and address of each person who has made any contribution
12 or received any disbursement in an aggregate amount or value in excess of \$200 within the
13 calendar year, together with the date and amount of any such contribution or disbursement. *See*
14 2 U.S.C. § 434(b)(2) - (6); 11 C.F.R. § 104.3(a)(3) and (4); 11 C.F.R. § 104.3(b)(2) and (4).

15 The Committee did not comply with the Act's reporting requirements when it failed to
16 disclose \$11,060.24 in receipts and \$129,462.13 in disbursements on its original reports filed
17 with the Commission. The Committee failed to disclose \$11,060.24 in receipts and \$5,753.11 in
18 disbursements on its original 2010 October Quarterly Report, \$439.30 in disbursements on its
19 original 2010 12 Day Pre-General Report, \$121,958.43 in disbursements on its original 2010 30
20 Day Post-General Report, and \$1,311.31 in disbursements on its original 2011 April Quarterly
21 Report. Therefore, the Commission finds reason to believe that Chuck Wilkerson for Congress
22 and Patricia Louise Motta, in her official capacity as treasurer, violated 2 U.S.C. § 434(b).

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